

SENATE BILL

No. 24

Introduced by Senator Ashburn

October 11, 2007

An act to amend Sections 2725.1, 2835.5, 2836, 2836.1, 2836.2, 2836.3, 3640, 3640.5, 4024, 4040, 4060, 4061, 4076, 4170, and 4174 of, and to add Section 2835.7 to, the Business and Professions Code, to amend Sections 11150 and 120582 of the Health and Safety Code, and to amend Sections 14111, 14111.5, and 16952 of the Welfare and Institutions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

SB 24, as introduced, Ashburn. Nurse practitioners: scope of practice.

(1) Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and requires the board to establish categories of, and standards for, nurse practitioners in consultation with specified health care practitioners, including physicians and surgeons with expertise in the nurse practitioner field. Existing law requires nurse practitioners to meet certain requirements, including educational requirements, and authorizes a nurse practitioner who has been issued a board number for the furnishing or ordering of drugs to furnish or order drugs under certain conditions, including pursuant to standardized procedures or protocols and under the supervision of a physician and surgeon. Existing law prohibits a physician and surgeon from supervising more than 4 nurse practitioners at one time. A violation of the Nursing Practice Act is a crime.

This bill would set forth the activities that a nurse practitioner is authorized to engage in, and would delete the requirement that the board

consult with physicians and surgeons in establishing categories of nurse practitioners. The bill would revise the educational requirements for certification as a nurse practitioner and would require a nurse practitioner to be certified by a nationally recognized certifying body approved by the board. The bill would allow a nurse practitioner to prescribe drugs and devices if he or she has been certified by the board to have satisfactorily completed at least 6 months of supervised experience in the prescribing of drugs and devices and if such prescribing is consistent with his or her education or established clinical competency, would delete the requirement for standardized procedures and protocols, and would delete the requirement of physician supervision. The bill would require that a nurse practitioner be issued a board number prior to prescribing drugs and devices and would allow revocation or suspension or denial of a board number for incompetence or gross negligence. The bill would delete the prohibition against a physician and surgeon supervising more than 4 nurse practitioners at one time.

Because this bill would impose additional requirements under the Nursing Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

(2) Existing law, the Medi-Cal Act, provides for the Medi-Cal program, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. The act authorizes certain covered health care services provided under in a long-term health care facility to be delegated to a nurse practitioner if specified conditions are met, including mandatory supervision by a physician and surgeon.

This bill would remove the requirement of mandatory supervision of the nurse practitioner by a physician and surgeon in order for the services to be delegated to a nurse practitioner.

(3) Existing law, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act, requires a county to establish a Physician Services Account within its emergency medical services fund. Existing law makes a physician and surgeon eligible to receive payment from the fund for patient care services, as specified, performed by a nurse practitioner or nurse-midwife under the direct supervision of the physician and surgeon.

This bill would also make a nurse practitioner eligible to receive payment for those patient care services and would remove the requirement of supervision of the services by a physician and surgeon. The bill would authorize a nurse practitioner to receive reimbursement

for emergency services and inpatient and outpatient obstetric pediatric services that the nurse practitioner determines to be medically necessary.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 2725.1 of the Business and Professions Code is amended to read:

2725.1. Notwithstanding any other provision of law, a registered nurse may dispense drugs or devices upon an order by a licensed physician and surgeon, *nurse practitioner, or nurse midwife* if the nurse is functioning within a licensed clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of, or within a clinic as defined in subdivision (b) or (c) of Section 1206, of the Health and Safety Code.

No clinic shall employ a registered nurse to perform dispensing duties exclusively. No registered nurse shall dispense drugs in a pharmacy; *or* keep a pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51 or a nurse practitioner ~~who functions pursuant to a standardized procedure described in Section 2836.1, or protocol~~, shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

SEC. 2. Section 2835.5 of the Business and Professions Code is amended to read:

2835.5. (a) A registered nurse who is holding himself or herself out as a nurse practitioner or who desires to hold himself or herself out as a nurse practitioner shall, within the time prescribed by the board and prior to his or her next license renewal or the issuance

1 of an initial license, submit educational, experience, and other
2 credentials and information as the board may require for it to
3 determine that the person qualifies to use the title “nurse
4 practitioner,” pursuant to the standards and qualifications
5 established by the board.

6 (b) Upon finding that a person is qualified to hold himself or
7 herself out as a nurse practitioner, the board shall appropriately
8 indicate on the license issued or renewed, that the person is
9 qualified to use the title “nurse practitioner.” The board shall also
10 issue to each qualified person a certificate evidencing that the
11 person is qualified to use the title “nurse practitioner.”

12 (c) A person who has been found to be qualified by the board
13 to use the title “nurse practitioner” prior to the effective date of
14 this section, shall not be required to submit any further
15 qualifications or information to the board and shall be deemed to
16 have met the requirements of this section.

17 (d) On and after January 1, 2008, an applicant for initial
18 qualification or certification as a nurse practitioner under this article
19 who has not been qualified or certified as a nurse practitioner in
20 California or any other state shall meet the following requirements:

21 (1) Hold a valid and active registered nursing license issued
22 under this chapter.

23 (2) Possess a master’s degree in nursing, ~~a master’s degree in~~
24 ~~a clinical field related to nursing,~~ or a ~~graduate~~ *doctoral* degree in
25 nursing.

26 (3) Satisfactorily complete a nurse practitioner program
27 approved by the board.

28 (4) *Be certified as a nurse practitioner by a nationally*
29 *recognized certifying body approved by the board.*

30 SEC. 3. Section 2835.7 is added to the Business and Professions
31 Code, to read:

32 2835.7. (a) A nurse practitioner may do all of the following:

33 (1) Perform a comprehensive history and physical examination.

34 (2) Establish diagnoses for physical, mental, or emotional
35 ailments or potential ailments.

36 (3) Admit patients to hospitals and nursing facilities.

37 (4) Order, perform, and interpret laboratory, radiographic, and
38 other diagnostic tests.

39 (5) Identify, develop, implement, and evaluate a plan of care
40 for a patient to promote, maintain, and restore health.

1 (6) Perform therapeutic procedures that the nurse practitioner
2 is qualified by education and experience to perform.

3 (7) Prescribe treatments.

4 (8) Prescribe and dispense medications when granted authority
5 by the board.

6 (9) Refer patients to appropriate licensed physician and surgeons
7 or other health care providers.

8 (10) Provide emergency care.

9 (11) Perform additional acts that the nurse practitioner is
10 educationally prepared and clinically competent to perform.

11 (12) Sign death certificates, return-to-work, school certificates,
12 and other related health certification forms.

13 (13) Certify incapacity for the purpose of activating durable
14 power of attorney for health care.

15 (14) Sign handicapped parking applications.

16 (15) Order home health services.

17 (16) Order durable medical equipment.

18 (17) Order home schooling or tutoring.

19 (b) A nurse practitioner shall consult or refer a patient to a
20 physician and surgeon or another health care provider if the referral
21 will protect the health and welfare of the patient and if a situation
22 or condition occurs in a patient that is beyond the nurse
23 practitioner's knowledge and experience.

24 SEC. 4. Section 2836 of the Business and Professions Code is
25 amended to read:

26 2836. (a) The board shall establish categories of nurse
27 practitioners and standards for nurses to hold themselves out as
28 nurse practitioners in each category. Such standards shall take into
29 account the types of advanced levels of nursing practice ~~which~~
30 *that* are or may be performed and the clinical and didactic
31 education, experience, or both needed to practice safely at those
32 levels. In setting ~~such~~ *the* standards, the board shall consult with
33 nurse practitioners, ~~physicians and surgeons with expertise in the~~
34 ~~nurse practitioner field~~, and health care organizations utilizing
35 nurse practitioners. Established standards shall apply to persons
36 without regard to the date of meeting ~~such~~ *those* standards. ~~If the~~
37 ~~board sets standards for use of nurse practitioner titles which~~
38 ~~include completion of an academically affiliated program, it shall~~
39 ~~provide equivalent standards for registered nurses who have not~~
40 ~~completed such a program.~~

(b) Any regulations promulgated by a state department, *board, commission, or bureau* that affect the scope of practice of a nurse practitioner shall be developed in consultation with the board.

SEC. 5. Section 2836.1 of the Business and Professions Code is amended to read:

~~2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:~~

~~(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and the supervising physician and surgeon~~

2836.1. (a) A nurse practitioner may prescribe drugs and devices when the drugs or devices ~~furnished or ordered~~ *prescribed* are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained.

~~(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or the designee.~~

~~(c) (1) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.~~

~~(2) In addition to the requirements in paragraph (1), for Schedule II controlled substance protocols, the provision for furnishing Schedule II controlled substances shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.~~

~~(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by~~

1 telephonic contact at the time of patient examination by the nurse
2 practitioner.

3 (e) ~~For purposes of this section, no physician and surgeon shall~~
4 ~~supervise more than four nurse practitioners at one time.~~

5 (f) (1)

6 (b) ~~Drugs or devices furnished or ordered~~ *prescribed* by a nurse
7 practitioner may include Schedule II through Schedule V controlled
8 substances under the California Uniform Controlled Substances
9 Act (Division 10 (commencing with Section 11000) of the Health
10 and Safety Code) ~~and shall be further limited to those drugs agreed~~
11 ~~upon by the nurse practitioner and physician and surgeon and~~
12 ~~specified in the standardized procedure.~~

13 (2) ~~When Schedule II or III controlled substances, as defined~~
14 ~~in Sections 11055 and 11056, respectively, of the Health and Safety~~
15 ~~Code, are furnished or ordered by a nurse practitioner, the~~
16 ~~controlled substances shall be furnished or ordered in accordance~~
17 ~~with a patient-specific protocol approved by the treating or~~
18 ~~supervising physician. A copy of the section of the nurse~~
19 ~~practitioner's standardized procedure relating to controlled~~
20 ~~substances shall be provided, upon request, to any licensed~~
21 ~~pharmacist who dispenses drugs or devices, when there is~~
22 ~~uncertainty about the nurse practitioner furnishing the order.~~

23 (g) (1) ~~The~~

24 (c) *A nurse practitioner may not prescribe drugs or devices*
25 *under this section unless the board has certified in accordance with*
26 *Section 2836.3 that the nurse practitioner has satisfactorily*
27 *completed—(1) at least six—month's—physician and*
28 *surgeon-supervised months' supervised experience in the furnishing*
29 *or ordering prescribing of drugs or and devices and (2) a course*
30 *in pharmacology covering the drugs or devices to be furnished or*
31 *ordered under this section.*

32 (2) ~~Nurse practitioners who are certified by the board and hold~~
33 ~~an active furnishing number, who are authorized through~~
34 ~~standardized procedures or protocols to furnish Schedule II~~
35 ~~controlled substances, and who are registered with the United~~
36 ~~States Drug Enforcement Administration, shall complete, as part~~
37 ~~of their continuing education requirements, a course including~~
38 ~~Schedule II controlled substances based on the standards developed~~
39 ~~by the board. The board shall establish the requirements for~~
40 ~~satisfactory completion of this subdivision.~~

1 ~~(h) Use of the term “furnishing” in this section, in health~~
2 ~~facilities defined in Section 1250 of the Health and Safety Code;~~
3 ~~shall include (1) the ordering of a drug or device in accordance~~
4 ~~with the standardized procedure and (2) transmitting an order of~~
5 ~~a supervising physician and surgeon.~~

6 ~~(i) “Drug order” or “order” for purposes of this section means~~
7 ~~an order for medication which is dispensed to or for an ultimate~~
8 ~~user, issued by a nurse practitioner as an individual practitioner;~~
9 ~~within the meaning of Section 1306.02 of Title 21 of the Code of~~
10 ~~Federal Regulations. Notwithstanding any other provision of law,~~
11 ~~(1) a drug order issued pursuant to this section shall be treated in~~
12 ~~the same manner as a prescription of the supervising physician;~~
13 ~~(2) all references to “prescription” in this code and the Health and~~
14 ~~Safety Code shall include drug orders issued by nurse practitioners;~~
15 ~~and (3) the signature of a nurse practitioner on a drug order issued~~
16 ~~in accordance with this section shall be deemed to be the signature~~
17 ~~of a prescriber for purposes of this code and the Health and Safety~~
18 ~~Code.~~

19 SEC. 6. Section 2836.2 of the Business and Professions Code
20 is amended to read:

21 2836.2. ~~Furnishing or ordering of drugs or devices by nurse~~
22 ~~practitioners is defined to mean the act of making a pharmaceutical~~
23 ~~agent or agents available to the patient in strict accordance with a~~
24 ~~standardized procedure. All nurse practitioners who are authorized~~
25 ~~pursuant to Section 2831.1 2836.1 to furnish or issue drug orders~~
26 ~~for *prescribe* controlled substances shall register with the United~~
27 ~~States Drug Enforcement Administration.~~

28 SEC. 7. Section 2836.3 of the Business and Professions Code
29 is amended to read:

30 2836.3. (a) ~~The *furnishing*~~ *prescribing* of drugs or devices by
31 nurse practitioners is conditional on issuance by the board of a
32 number to the nurse *practitioner* applicant who has successfully
33 completed the requirements of subdivision ~~(g)~~ (c) of Section
34 2836.1. The number shall be included on all ~~transmittals of orders~~
35 *prescriptions* for drugs or devices by the nurse practitioner. The
36 board shall make the list of numbers issued available to the Board
37 of Pharmacy. The board may charge the applicant a fee to cover
38 all necessary costs to implement this section.

39 (b) The number shall be renewable at the time of the applicant’s
40 registered nurse license renewal.

1 (c) The board may revoke, suspend, or deny issuance of the
2 numbers for incompetence or gross negligence in the performance
3 of functions specified in Sections 2836.1 and 2836.2.

4 SEC. 8. Section 3640 of the Business and Professions Code is
5 amended to read:

6 3640. (a) A naturopathic doctor may order and perform
7 physical and laboratory examinations for diagnostic purposes,
8 including, but not limited to, phlebotomy, clinical laboratory tests,
9 speculum examinations, orificial examinations, and physiological
10 function tests.

11 (b) A naturopathic doctor may order diagnostic imaging studies,
12 including X-ray, ultrasound, mammogram, bone densitometry,
13 and others, consistent with naturopathic training as determined by
14 the bureau, but shall refer the studies to an appropriately licensed
15 health care professional to conduct the study and interpret the
16 results.

17 (c) A naturopathic doctor may dispense, administer, order, and
18 prescribe or perform the following:

19 (1) Food, extracts of food, ~~nutraceuticals~~ *neutraceuticals*,
20 vitamins, amino acids, minerals, enzymes, botanicals and their
21 extracts, botanical medicines, homeopathic medicines, all dietary
22 supplements and nonprescription drugs as defined by the federal
23 Food, Drug, and Cosmetic Act, consistent with the routes of
24 administration identified in subdivision (d).

25 (2) Hot or cold hydrotherapy; naturopathic physical medicine
26 inclusive of the manual use of massage, stretching, resistance, or
27 joint play examination but exclusive of small amplitude movement
28 at or beyond the end range of normal joint motion; electromagnetic
29 energy; colon hydrotherapy; and therapeutic exercise.

30 (3) Devices, including, but not limited to, therapeutic devices,
31 barrier contraception, and durable medical equipment.

32 (4) Health education and health counseling.

33 (5) Repair and care incidental to superficial lacerations and
34 abrasions, except suturing.

35 (6) Removal of foreign bodies located in the superficial tissues.

36 (d) A naturopathic doctor may utilize routes of administration
37 that include oral, nasal, auricular, ocular, rectal, vaginal,
38 transdermal, intradermal, subcutaneous, intravenous, and
39 intramuscular.

(e) The bureau may establish regulations regarding ocular or intravenous routes of administration that are consistent with the education and training of a naturopathic doctor.

(f) Nothing in this section shall exempt a naturopathic doctor from meeting applicable licensure requirements for the performance of clinical laboratory tests.

~~(g) The authority to use all routes for furnishing prescription drugs as described in Section 3640.5 shall be consistent with the oversight and supervision requirements of Section 2836.1.~~

SEC. 9. Section 3640.5 of the Business and Professions Code is amended to read:

3640.5. Nothing in this chapter or any other provision of law shall be construed to prohibit a naturopathic doctor from furnishing or ordering drugs when all of the following apply:

(a) The drugs are furnished or ordered by a naturopathic doctor in accordance with standardized procedures or protocols developed by the naturopathic doctor and his or her supervising physician and surgeon.

(b) The naturopathic doctor is functioning pursuant to standardized procedure, ~~as defined by subdivisions (a), (b), (d), (e), (h), and (i) of Section 2836.1 and paragraph (1) of subdivision (e) of Section 2836.1~~, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the naturopathic doctor, and, where applicable, the facility administrator or his or her designee.

(c) The standardized procedure or protocol covering the furnishing of drugs shall specify which naturopathic doctors may furnish or order drugs, which drugs may be furnished or ordered under what circumstances, the extent of physician and surgeon supervision, *and* the method of periodic review of the naturopathic doctor's competence, including peer review; and review of the provisions of the standardized procedure.

(d) The furnishing or ordering of drugs by a naturopathic doctor occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include all of the following:

(1) Collaboration on the development of the standardized procedure.

(2) Approval of the standardized procedure.

1 (3) Availability by telephonic contact at the time of patient
2 examination by the naturopathic doctor.

3 (e) For purposes of this section, a physician and surgeon shall
4 not supervise more than four naturopathic doctors at one time.

5 (f) Drugs furnished or ordered by a naturopathic doctor may
6 include Schedule III through Schedule V controlled substances
7 under the California Uniform Controlled Substances Act (Division
8 10 (commencing with Section 11000) of the Health and Safety
9 Code) and shall be further limited to those drugs agreed upon by
10 the naturopathic doctor and physician and surgeon as specified in
11 the standardized procedure. When Schedule III controlled
12 substances, as defined in Section 11056 of the Health and Safety
13 Code, are furnished or ordered by a naturopathic doctor, the
14 controlled substances shall be furnished or ordered in accordance
15 with a patient-specific protocol approved by the treating or
16 supervising physician. A copy of the section of the naturopathic
17 doctor's standardized procedure relating to controlled substances
18 shall be provided upon request, to a licensed pharmacist who
19 dispenses drugs, when there is uncertainty about the naturopathic
20 doctor furnishing the order.

21 (g) The bureau has certified that the naturopathic doctor has
22 satisfactorily completed adequate coursework in pharmacology
23 covering the drugs to be furnished or ordered under this section.
24 The bureau shall establish the requirements for satisfactory
25 completion of this subdivision.

26 (h) Use of the term "furnishing" in this section, in health
27 facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section
28 1250 of the Health and Safety Code, shall include both of the
29 following:

30 (1) Ordering a drug in accordance with the standardized
31 procedure.

32 (2) Transmitting an order of a supervising physician and
33 surgeon.

34 (i) For purposes of this section, "drug order" or "order" means
35 an order for medication which is dispensed to or for an ultimate
36 user, issued by a naturopathic doctor as an individual practitioner,
37 within the meaning of Section 1306.02 of Title 21 of the Code of
38 Federal Regulations.

39 (j) Notwithstanding any other provision of law, the following
40 apply:

(1) A drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician.

(2) All references to prescription in this code and the Health and Safety Code shall include drug orders issued by naturopathic doctors.

(3) The signature of a naturopathic doctor on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

SEC. 10. Section 4024 of the Business and Professions Code is amended to read:

4024. (a) Except as provided in subdivision (b), “dispense” means the furnishing of drugs or devices upon a prescription from a physician *and surgeon*, dentist, optometrist, podiatrist, veterinarian, *nurse practitioner*, or naturopathic doctor pursuant to Section 3640.7, or upon an order to furnish drugs or transmit a prescription from a certified nurse-midwife, ~~nurse practitioner~~, physician assistant, naturopathic doctor pursuant to Section 3640.5, or pharmacist acting within the scope of his or her practice.

(b) “Dispense” also means and refers to the furnishing of drugs or devices directly to a patient by a physician *and surgeon*, dentist, optometrist, podiatrist, or veterinarian, or by a certified nurse-midwife, nurse practitioner, naturopathic doctor, or physician assistant acting within the scope of his or her practice.

SEC. 11. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) “Prescription” means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, ~~nurse practitioner~~, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, ~~2836.1~~, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

(2) Issued by a physician *and surgeon*, dentist, optometrist, podiatrist, veterinarian, *nurse practitioner*, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, ~~2836.1~~, 3502.1, or ~~3460.5~~ 3640.5, by a certified nurse-midwife, ~~nurse practitioner~~, physician assistant, or naturopathic doctor licensed in this state, or pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) “Electronic transmission prescription” includes both image and data prescriptions. “Electronic image transmission prescription” means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. “Electronic data transmission prescription” means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at the 1969 Regular Session of the Legislature shall

1 be construed as expanding or limiting the right that a chiropractor,
2 while acting within the scope of his or her license, may have to
3 prescribe a device.

4 SEC. 12. Section 4060 of the Business and Professions Code
5 is amended to read:

6 4060. No person shall possess any controlled substance, except
7 that furnished to a person upon the prescription of a physician *and*
8 *surgeon*, dentist, podiatrist, optometrist, veterinarian, *nurse*
9 *practitioner*, or naturopathic doctor pursuant to Section 3640.7,
10 or furnished pursuant to a drug order issued by a certified
11 nurse-midwife pursuant to Section 2746.51, ~~a nurse practitioner~~
12 ~~pursuant to Section 2836.1~~, a physician assistant pursuant to
13 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,
14 or a pharmacist pursuant to either subparagraph (D) of paragraph
15 (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of,
16 subdivision (a) of Section 4052. This section shall not apply to the
17 possession of any controlled substance by a manufacturer,
18 wholesaler, pharmacy, pharmacist, physician *and surgeon*,
19 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor,
20 certified nurse-midwife, nurse practitioner, or physician assistant;
21 when in stock in containers correctly labeled with the name and
22 address of the supplier or producer.

23 Nothing in this section authorizes a certified nurse-midwife, ~~a~~
24 ~~nurse practitioner~~, a physician assistant, or a naturopathic doctor;
25 to order his or her own stock of dangerous drugs and devices.

26 SEC. 13. Section 4061 of the Business and Professions Code
27 is amended to read:

28 4061. (a) No manufacturer's sales representative shall
29 distribute any dangerous drug or dangerous device as a
30 complimentary sample without the written request of a physician
31 *and surgeon*, dentist, podiatrist, optometrist, veterinarian, *nurse*
32 *practitioner*, or naturopathic doctor pursuant to Section 3640.7.
33 However, a certified nurse-midwife who functions pursuant to a
34 standardized procedure or protocol described in Section 2746.51,
35 ~~a nurse practitioner who functions pursuant to a standardized~~
36 ~~procedure described in Section 2836.1, or protocol~~, a physician
37 assistant who functions pursuant to a protocol described in Section
38 3502.1, or a naturopathic doctor who functions pursuant to a
39 standardized procedure or protocol described in Section 3640.5;
40 may sign for the request and receipt of complimentary samples of

1 a dangerous drug or dangerous device that has been identified in
2 the standardized procedure, protocol, or practice agreement.
3 Standardized procedures, protocols, and practice agreements shall
4 include specific approval by a physician *and surgeon*. A review
5 process, consistent with the requirements of Section 2725, 3502.1,
6 or 3640.5, of the complimentary samples requested and received
7 by a ~~nurse practitioner~~, certified nurse-midwife, physician assistant,
8 or naturopathic doctor; shall be defined within the standardized
9 procedure, protocol, or practice agreement.

10 (b) Each written request shall contain the names and addresses
11 of the supplier and the requester, the name and quantity of the
12 specific dangerous drug desired, the name of the certified
13 nurse-midwife, ~~nurse practitioner~~, physician assistant, or
14 naturopathic doctor, if applicable, receiving the samples pursuant
15 to this section, the date of receipt, and the name and quantity of
16 the dangerous drugs or dangerous devices provided. These records
17 shall be preserved by the supplier with the records required by
18 Section 4059.

19 (c) Nothing in this section is intended to expand the scope of
20 practice of a certified nurse-midwife, ~~nurse practitioner~~, physician
21 assistant, or naturopathic doctor.

22 SEC. 14. Section 4076 of the Business and Professions Code
23 is amended to read:

24 4076. (a) A pharmacist shall not dispense any prescription
25 except in a container that meets the requirements of state and
26 federal law and is correctly labeled with all of the following:

27 (1) Except where the prescriber or the certified nurse-midwife
28 who functions pursuant to a standardized procedure or protocol
29 described in Section 2746.51, ~~the nurse practitioner who functions~~
30 ~~pursuant to a standardized procedure described in Section 2836.1,~~
31 ~~or protocol~~, the physician assistant who functions pursuant to
32 Section 3502.1, the naturopathic doctor who functions pursuant
33 to a standardized procedure or protocol described in Section
34 3640.5, or the pharmacist who functions pursuant to a policy,
35 procedure, or protocol pursuant to either subparagraph (D) of
36 paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
37 (5) of, subdivision (a) of Section 4052 orders otherwise, either the
38 manufacturer's trade name of the drug or the generic name and
39 the name of the manufacturer. Commonly used abbreviations may
40 be used. Preparations containing two or more active ingredients

1 may be identified by the manufacturer's trade name or the
2 commonly used name or the principal active ingredients.

3 (2) The directions for the use of the drug.

4 (3) The name of the patient or patients.

5 (4) The name of the prescriber or, if applicable, the name of the
6 certified nurse-midwife who functions pursuant to a standardized
7 procedure or protocol described in Section 2746.51, ~~the nurse~~
8 ~~practitioner who functions pursuant to a standardized procedure~~
9 ~~described in Section 2836.1, or protocol~~, the physician assistant
10 who functions pursuant to Section 3502.1, the naturopathic doctor
11 who functions pursuant to a standardized procedure or protocol
12 described in Section 3640.5, or the pharmacist who functions
13 pursuant to a policy, procedure, or protocol pursuant to either
14 subparagraph (D) of paragraph (4) of, or clause (iv) of
15 subparagraph (A) of paragraph (5) of, subdivision (a) of Section
16 4052.

17 (5) The date of issue.

18 (6) The name and address of the pharmacy, and prescription
19 number or other means of identifying the prescription.

20 (7) The strength of the drug or drugs dispensed.

21 (8) The quantity of the drug or drugs dispensed.

22 (9) The expiration date of the effectiveness of the drug
23 dispensed.

24 (10) The condition for which the drug was prescribed if
25 requested by the patient and the condition is indicated on the
26 prescription.

27 (11) (A) Commencing January 1, 2006, the physical description
28 of the dispensed medication, including its color, shape, and any
29 identification code that appears on the tablets or capsules, except
30 as follows:

31 (i) Prescriptions dispensed by a veterinarian.

32 (ii) An exemption from the requirements of this paragraph shall
33 be granted to a new drug for the first 120 days that the drug is on
34 the market and for the 90 days during which the national reference
35 file has no description on file.

36 (iii) Dispensed medications for which no physical description
37 exists in any commercially available database.

38 (B) This paragraph applies to outpatient pharmacies only.

39 (C) The information required by this paragraph may be printed
40 on an auxiliary label that is affixed to the prescription container.

1 (D) This paragraph shall not become operative if the board,
2 prior to January 1, 2006, adopts regulations that mandate the same
3 labeling requirements set forth in this paragraph.

4 (b) If a pharmacist dispenses a prescribed drug by means of a
5 unit dose medication system, as defined by administrative
6 regulation, for a patient in a skilled nursing, intermediate care, or
7 other health care facility, the requirements of this section will be
8 satisfied if the unit dose medication system contains the
9 aforementioned information or the information is otherwise readily
10 available at the time of drug administration.

11 (c) If a pharmacist dispenses a dangerous drug or device in a
12 facility licensed pursuant to Section 1250 of the Health and Safety
13 Code, it is not necessary to include on individual unit dose
14 containers for a specific patient, the name of the certified
15 nurse-midwife who functions pursuant to a standardized procedure
16 or protocol described in Section 2746.51, ~~the nurse practitioner~~
17 ~~who functions pursuant to a standardized procedure described in~~
18 ~~Section 2836.1, or protocol,~~ the physician assistant who functions
19 pursuant to Section 3502.1, the naturopathic doctor who functions
20 pursuant to a standardized procedure or protocol described in
21 Section 3640.5, or the pharmacist who functions pursuant to a
22 policy, procedure, or protocol pursuant to either subparagraph (D)
23 of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
24 (5) of, subdivision (a) of Section 4052.

25 (d) If a pharmacist dispenses a prescription drug for use in a
26 facility licensed pursuant to Section 1250 of the Health and Safety
27 Code, it is not necessary to include the information required in
28 paragraph (11) of subdivision (a) when the prescription drug is
29 administered to a patient by a person licensed under the Medical
30 Practice Act (Chapter 5 (commencing with Section 2000)), the
31 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),
32 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing
33 with Section 2840)), who is acting within his or her scope of
34 practice.

35 SEC. 15. Section 4170 of the Business and Professions Code
36 is amended to read:

37 4170. (a) No prescriber shall dispense drugs or dangerous
38 devices to patients in his or her office or place of practice unless
39 all of the following conditions are met:

1 (1) The dangerous drugs or dangerous devices are dispensed to
2 the prescriber's own patient, and the drugs or dangerous devices
3 are not furnished by a nurse or physician attendant.

4 (2) The dangerous drugs or dangerous devices are necessary in
5 the treatment of the condition for which the prescriber is attending
6 the patient.

7 (3) The prescriber does not keep a pharmacy, open shop, or
8 drugstore, advertised or otherwise, for the retailing of dangerous
9 drugs, dangerous devices, or poisons.

10 (4) The prescriber fulfills all of the labeling requirements
11 imposed upon pharmacists by Section 4076, all of the
12 recordkeeping requirements of this chapter, and all of the packaging
13 requirements of good pharmaceutical practice, including the use
14 of childproof containers.

15 (5) The prescriber does not use a dispensing device unless he
16 or she personally owns the device and the contents of the device,
17 and personally dispenses the dangerous drugs or dangerous devices
18 to the patient packaged, labeled, and recorded in accordance with
19 paragraph (4).

20 (6) The prescriber, prior to dispensing, offers to give a written
21 prescription to the patient that the patient may elect to have filled
22 by the prescriber or by any pharmacy.

23 (7) The prescriber provides the patient with written disclosure
24 that the patient has a choice between obtaining the prescription
25 from the dispensing prescriber or obtaining the prescription at a
26 pharmacy of the patient's choice.

27 (8) A certified nurse-midwife who functions pursuant to a
28 standardized procedure or protocol described in Section 2746.51,
29 ~~a nurse practitioner who functions pursuant to a standardized~~
30 ~~procedure described in Section 2836.1, or protocol,~~ a physician
31 assistant who functions pursuant to Section 3502.1, or a
32 naturopathic doctor who functions pursuant to Section 3640.5,
33 may hand to a patient of the supervising physician and surgeon *or*
34 *nurse practitioner* a properly labeled prescription drug prepackaged
35 by a physician and surgeon, a manufacturer as defined in this
36 chapter, *a nurse practitioner*, or a pharmacist.

37 (b) The Medical Board of California, the State Board of
38 Optometry, the Bureau of Naturopathic Medicine, the Dental Board
39 of California, the Osteopathic Medical Board of California, the
40 Board of Registered Nursing, the Veterinary Medical Board, and

1 the Physician Assistant Committee shall have authority with the
2 California State Board of Pharmacy to ensure compliance with
3 this section, and those boards are specifically charged with the
4 enforcement of this chapter with respect to their respective
5 licensees.

6 (c) “Prescriber,” as used in this section, means a person; who
7 holds a ~~physician’s~~ *physician* and surgeon’s certificate, a license
8 to practice optometry, a license to practice naturopathic medicine,
9 a license to practice dentistry, a license to practice veterinary
10 medicine, ~~or a certificate to practice podiatry, or a license and~~
11 ~~certification as a nurse practitioner~~, and who is duly registered
12 by the Medical Board of California, the State Board of Optometry,
13 the Bureau of Naturopathic Medicine, the Dental Board of
14 California, the Veterinary Medical Board, ~~or the Board of~~
15 ~~Osteopathic Examiners, or the Board of Registered Nursing~~ of this
16 state.

17 SEC. 16. Section 4174 of the Business and Professions Code
18 is amended to read:

19 4174. Notwithstanding any other provision of law, a pharmacist
20 may dispense drugs or devices upon the drug order of ~~a nurse~~
21 ~~practitioner functioning pursuant to Section 2836.1 or a certified~~
22 ~~nurse-midwife functioning pursuant to Section 2746.51, a drug~~
23 ~~order of a physician assistant functioning pursuant to Section~~
24 ~~3502.1, or a naturopathic doctor functioning pursuant to Section~~
25 ~~3640.5, or the order of a pharmacist acting under Section 4052.~~

26 SEC. 17. Section 11150 of the Health and Safety Code is
27 amended to read:

28 11150. No person other than a physician *and surgeon*, dentist,
29 podiatrist, or veterinarian, or naturopathic doctor acting pursuant
30 to Section 3640.7 of the Business and Professions Code, or
31 pharmacist acting within the scope of a project authorized under
32 Article 1 (commencing with Section 128125) of Chapter 3 of Part
33 3 of Division 107 or within the scope of either subparagraph (D)
34 of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
35 (5) of, subdivision (a) of Section 4052 of the Business and
36 Professions Code, a registered nurse acting within the scope of a
37 project authorized under Article 1 (commencing with Section
38 128125) of Chapter 3 of Part 3 of Division 107, a certified
39 nurse-midwife acting within the scope of Section 2746.51 of the
40 Business and Professions Code, a nurse practitioner acting within

1 the scope of ~~Section~~ *Sections 2835.7 and 2836.1* of the Business
2 and Professions Code, a physician assistant acting within the scope
3 of a project authorized under Article 1 (commencing with Section
4 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1
5 of the Business and Professions Code, a naturopathic doctor acting
6 within the scope of Section 3640.5 of the Business and Professions
7 Code, or an optometrist acting within the scope of Section 3041
8 of the Business and Professions Code, or an out-of-state prescriber
9 acting pursuant to Section 4005 of the Business and Professions
10 Code shall write or issue a prescription.

11 SEC. 18. Section 120582 of the Health and Safety Code is
12 amended to read:

13 120582. (a) Notwithstanding any other provision of law, a
14 physician and surgeon *or a nurse practitioner* who diagnoses a
15 sexually transmitted chlamydia, gonorrhea, or ~~other~~ *another*
16 sexually transmitted infection, as determined by the department,
17 in an individual patient may prescribe, dispense, furnish, or
18 otherwise provide prescription antibiotic drugs to that patient's
19 sexual partner or partners without examination of that patient's
20 partner or partners. The department may adopt regulations to
21 implement this section.

22 (b) Notwithstanding any other provision of law, ~~a nurse~~
23 ~~practitioner pursuant to Section 2836.1 of the Business and~~
24 ~~Professions Code~~, a certified nurse-midwife pursuant to Section
25 2746.51 of the Business and Professions Code, and a physician
26 assistant pursuant to Section 3502.1 of the Business and Professions
27 Code may dispense, furnish, or otherwise provide prescription
28 antibiotic drugs to the sexual partner or partners of a patient with
29 a diagnosed sexually transmitted chlamydia, gonorrhea, or other
30 sexually transmitted infection, as determined by the department,
31 without examination of the patient's sexual partner or partners.

32 SEC. 19. Section 14111 of the Welfare and Institutions Code
33 is amended to read:

34 14111. (a) As permitted by federal law or regulations, for
35 health care services provided in a long-term health care facility
36 that are reimbursed by Medicare, a physician and surgeon may
37 delegate any of the following to a nurse practitioner:

38 (1) Alternating visits required by federal law and regulations
39 with a physician and surgeon.

(2) Any duties consistent with federal law and regulations within the scope of practice of nurse practitioners, so long as ~~all~~ *both* of the following conditions are met:

(A) A physician and surgeon approves, in writing, the admission of the individual to the facility.

~~(B) The medical care of each resident is supervised by a physician and surgeon.~~

~~(C)~~

(B) A physician and surgeon performs the initial visit and alternate required visits.

(b) This section does not authorize benefits not otherwise authorized by federal law or regulation.

~~(c) All responsibilities delegated to a nurse practitioner pursuant to this section shall be performed under the supervision of the physician and surgeon and pursuant to a standardized procedure among the physician and surgeon, nurse practitioner, and facility.~~

~~(d)~~

(c) No task that is required by federal law or regulation to be performed personally by a physician *and surgeon* may be delegated to a nurse practitioner.

~~(e)~~

(d) Nothing in this section shall be construed as limiting the authority of a long-term health care facility to hire and employ nurse practitioners so long as that employment is consistent with federal law and within the scope of practice of a nurse practitioner.

SEC. 20. Section 14111.5 of the Welfare and Institutions Code is amended to read:

14111.5. (a) As permitted by federal law or regulations, for health care services provided in a long-term health care facility that are reimbursed under this chapter, a nurse practitioner may, to the extent consistent with his or her scope of practice, perform any of the following tasks otherwise required of a physician and surgeon:

(1) With respect to visits required by federal law or regulations, making alternating visits, or more frequent visits if the physician and surgeon is not available.

(2) Any duty or task that is consistent with federal and state law or regulation within the scope of practice of nurse practitioners, so long as ~~all~~ *both* of the following conditions are met:

1 (A) A physician and surgeon approves, in writing, the admission
2 of the individual to the facility.

3 ~~(B) The medical care of each resident is supervised by a~~
4 ~~physician and surgeon.~~

5 ~~(C)~~

6 (B) A physician and surgeon performs the initial visit and
7 alternate required visits.

8 (b) This section does not authorize benefits not otherwise
9 authorized by federal or state law or regulation.

10 ~~(e) All responsibilities undertaken by a nurse practitioner~~
11 ~~pursuant to this section shall be performed in collaboration with~~
12 ~~the physician and surgeon and pursuant to a standardized procedure~~
13 ~~among the physician and surgeon, nurse practitioner, and facility.~~

14 ~~(d)~~

15 (c) Except as provided in subdivisions (a) to (e), inclusive and
16 (b), any task that is required by federal law or regulation to be
17 performed personally by a physician *and surgeon* may be delegated
18 to a nurse practitioner who is not an employee of the long-term
19 health care facility.

20 (e)

21 (d) Nothing in this section shall be construed as limiting the
22 authority of a long-term health care facility to hire and employ
23 nurse practitioners so long as that employment is consistent with
24 federal law and with the scope of practice of a nurse practitioner.

25 SEC. 21. Section 16952 of the Welfare and Institutions Code
26 is amended to read:

27 16952. (a) (1) Each county shall establish within its emergency
28 medical services fund a Physician Services Account. Each county
29 shall deposit in the Physician Services Account those funds
30 appropriated by the Legislature for the purposes of the Physician
31 Services Account of the fund.

32 (2) (A) Each county may encumber sufficient funds to
33 reimburse physician *and surgeon* losses incurred during the fiscal
34 year for which bills will not be received until after the fiscal year.

35 (B) Each county shall provide a reasonable basis for its estimate
36 of the necessary amount encumbered.

37 (C) All funds that are encumbered for a fiscal year shall be
38 expended or disencumbered prior to the submission of the report
39 of actual expenditures required by Sections 16938 and 16980.

(b) (1) Funds deposited in the Physician Services Account in the county emergency medical services fund shall be exempt from the percentage allocations set forth in subdivision (a) of Section 1797.98. However, funds in the county Physician Services Account shall not be used to reimburse for physician *and surgeon* services provided by ~~physicians~~ *physician and surgeons* employed by county hospitals.

(2) No physician *and surgeon* who provides physician *and surgeon* services in a primary care clinic which receives funds from this act shall be eligible for reimbursement from the Physician Services Account for any losses incurred in the provision of those services.

(c) The county ~~physician services account~~ *Physician Services Account* shall be administered by each county, except that a county electing to have the state administer its medically indigent adult program as authorized by Section 16809, may also elect to have its county physician services account administered by the state in accordance with Section 16954.

(d) Costs of administering the account, whether by the county or by the department through the emergency medical services contract-back program, shall be reimbursed by the account based on actual administrative costs, not to exceed 10 percent of the amount of the account.

(e) For purposes of this article “administering agency” means the agency designated by the board of supervisors to administer this article, or the department, in the case of those CMSP counties electing to have the state administer this article on their behalf.

(f) The county Physician Services Account shall be used to reimburse ~~physicians~~ *physician and surgeons* for losses incurred for services provided during the fiscal year of allocation due to patients who do not have health insurance coverage for emergency services and care, who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government with the exception of claims submitted for reimbursement through Section 1011 of the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003.

(g) *Nurse practitioners shall be eligible to receive payment for patient care services. Payment shall be limited to those claims that are substantiated by a medical record.*

1 ~~(g) Physicians~~

2 ~~(h)~~ *Physician and surgeons* shall be eligible to receive payment
3 for patient care services provided by, or in conjunction with, a
4 ~~properly credentialed nurse practitioner or licensed~~ physician's
5 assistant for care rendered under the direct supervision of a
6 physician and surgeon who is present in the facility where the
7 patient is being treated and who is available for immediate
8 consultation. Payment shall be limited to those claims that are
9 substantiated by a medical record and that have been reviewed and
10 countersigned by the supervising physician and surgeon in
11 accordance with regulations established for the supervision of
12 ~~nurse practitioners and~~ physician assistants in California.

13 ~~(h)~~

14 ~~(i)~~ (1) Reimbursement for losses shall be limited to emergency
15 services as defined in Section 16953, obstetric, and pediatric
16 services as defined in Sections 16905.5 and 16907.5, respectively.

17 (2) It is the intent of this subdivision to allow reimbursement
18 for all of the following:

19 (A) All inpatient and outpatient obstetric services ~~which that~~
20 are medically necessary, as determined by the attending physician
21 ~~and surgeon or nurse practitioner.~~

22 (B) All inpatient and outpatient pediatric services ~~which that~~
23 are medically necessary, as determined by the attending physician
24 ~~and surgeon or nurse practitioner.~~

25 ~~(i)~~

26 ~~(j)~~ Any physician ~~and surgeon or nurse practitioner~~ may be
27 reimbursed for up to 50 percent of the amount claimed pursuant
28 to Section 16955 for the initial cycle of reimbursements made by
29 the administering agency in a given year. All funds remaining at
30 the end of the fiscal year shall be distributed proportionally, based
31 on the dollar amount of claims submitted and paid to all ~~physicians~~
32 ~~physician and surgeons and nurse practitioners~~ who submitted
33 qualifying claims during that year. The administering agency shall
34 not disburse funds in excess of the total amount of a qualified
35 claim.

36 SEC. 22. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

O